IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8705 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BABU JIVA SANDHI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

DN PATEL LD AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 03/03/2000

ORAL JUDGEMENT

The detenu by filing this petition challenges the legality of the order made by the District Magistrate, Rajkot, on 30th July, 1999 vide Annexure-A, under the provisions contained in the Gujarat Prevention of

Anti-social Activities Act, 1985 (`PASA Act' for short).

2. Grounds of detention served on the detenu are placed on record at Annexure-B. It is very clear from the grounds of detention that there are 5 cases registered against the detenu out of which 4 cases are for the breach of provisions contained in the Bombay Prohibition Act. The last case registered on 16/4/99, is for the offences punishable under Sec. 323, 506(2), 143, 147 and 149 of the I.P.C. From the grounds of detention it is clear that the detenu is a bootlegger and is engaged in nefarious activities of selling illicit liquor. The District Magistrate was satisfied on verification of the statements that the detenu is a dangerous person, inasmuch as he is in habit of beating innocent persons. The detenu was acting in such a manner that the citizens were not in a position to come forward openly to give statement against him. The detenu also used to snatch away the articles from the Vendors by threatening the Vendors.

3. Without entering into the the legality of the grounds of detention, the petition is required to be disposed of on a short ground that the State Government was not reported about the order of detention passed by the detaining authority in accordance with law i.e. as mentioned in Sec.3 of the Act. The ground specifically raised by the detenu in the petition in para 6, in which it has been stated that the authorised officer is required to report about the fact of passing an order of detention. Learned advocate for the petitioner submits that the State Government has not filed affidavit. There is a delay in passing the order. However, without going into other aspects of the matter, as the Detaining Authority has not forwarded its report as contemplated under Section 3 of the Act, the continued detention is required to be held bad and illegal. Hence the detention order is hereby quashed and set aside. The petition is allowed. Rule made absolute.

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